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CIMB ISLAMIC BANK BHD v. SURUHANJAYA PENCEGAHAN RASUAH MALAYSIA & ORS

HIGH COURT MALAYA, KUALA LUMPUR
GAN TECHIONG JC
[ORIGINATING SUMMONS NO: WA-24NCvC-1599-04-2024]
B 9 APRIL 2025

Abstract – *In an interpleader application, the power to determine disputes summarily between the claimants would be applicable if, and only if, there are no existing proceedings between the claimants that would be determinative of the substantive questions of law and disputes between them. Order 17 of the Rules of Court 2012 is intended to provide relief to a party who is facing two or more claimants for a property that he is holding. It is certainly not a rule intended to usurp proceedings in other courts between those parties who are aptly referred to in O. 17 as 'claimants'.*

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CIVIL PROCEDURE: *Interpleader – Determination – Society's money maintained with bank frozen and seized pursuant to orders – Member of society demanded bank to release money – Interpleader filed by bank pending disposal of judicial review applications challenging freezing and seizure orders – Determination on whether bank ought to continue to freeze money in account or to accede to demand for release of money – Whether disputes suitable to be determined summarily in hearing interpleader – Rules of Court 2012, O. 17*

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Parti Pribumi Bersatu Malaysia ('PPBM') had money maintained with the plaintiff, a bank ('account'). The Malaysian Anti-Corruption Commission ('MACC'), *ie*, the first defendant, had commenced investigation against Tan Sri Dato' Haji Mahiaddin Md Yassin ('TSMY'), under s. 23 of the Malaysian Anti-Corruption Commission Act 2009 ('MACC Act'), pursuant to a complaint of bribery. The plaintiff then received a freezing order from the first defendant. TSMY was later charged (i) at the Kuala Lumpur Sessions Court with: (a) four charges for an offence under s. 23(1) of the MACC Act; and (b) two charges for an offence under s. 4(1)(b) read together with s. 87(1) of the Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001 ('AMLA Act'); and (ii) at the Shah Alam Sessions Court for an offence under s. 4(1)(b) of the AMLA Act. The Public Prosecutor ('PP'), *ie*, the second defendant, by declaring that the account had become the subject matter or evidence to the commission of an offence under s. 4(1) of the AMLA Act, proceeded to issue a seizure order. The seizure and freezing orders were complied with by the plaintiff. The plaintiff had received a letter of demand from the third defendant, the public officer and

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member of PPBM, demanding the release of money in the said account. The third defendant had commenced separate judicial review applications, challenging the freezing and seizure orders. While leave for judicial review for both applications were granted, the substantive application was yet to be disposed of. The plaintiff's present application was an interpleader, filed pursuant to O. 17 of the Rules of Court 2012, seeking the determination on whether it should continue to freeze the money in the account or to accede to the third defendant's demand for the money to be released.

Held (directing plaintiff to continue to hold funds in account until judicial review applications are disposed of):

(1) PPBM was a political party registered as a society under the Societies Act 1966 ('SA'). A society is not a body corporate. Unlike a company incorporated under the Companies Act 2016 or a limited liability partnership registered under the Limited Liability Partnerships Act 2012, which are new legal entities, a society such as PPBM does not have a separate legal entity. (para 35)

(2) The PP may not charge a society in the name of the society for any offence under the AMLA Act, for the following reasons: (i) there is no provision of law, in the SA or the AMLA Act, for the society to be regarded as a separate legal entity to be charged in its own name; (ii) the only provision in the SA that makes reference to criminal offences committed in the name of a society is s. 51 thereof. Section 51 does not mention a word about a society being charged in its own name. Instead, s. 51(2) refers to the prosecution of an office-bearer or any person managing or assisting in the management of a society if an offence is committed by the society. (paras 38 & 39)

(3) TSMY had been charged within the period stipulated in s. 52A of the AMLA Act. Reading s. 51 of the SA together with ss. 52A and 87 of the AMLA Act, it was illogical to regard the act of charging TSMY, in his capacity as the President of PPBM, as due compliance with s. 52A of the AMLA Act – to charge the person against whom the seizure order was made within 12 months, with an offence under the AMLA Act. (paras 45 & 47)

(4) The plaintiff's interpleader was what it was: simply an interpleader application filed by the plaintiff to avoid being sued by the third defendant and/or to be charged by the first and second defendants. It should not be heard as a civil suit or judicial review filed by the third defendant against the first and/or second defendants. The disputes between the defendants were not suitable to be determined summarily in hearing the plaintiff's interpleader. There were questions of law and disputed facts forming the subject matters of the judicial review application at the Special Powers Division of this court and the criminal

prosecution at the Sessions Court – all of which were still pending hearing and trial, respectively. If this court was to delve further, the effect would be to usurp the domain of other courts that ought to be making the final determination on a wider range of issues. (paras 48 & 51)

Case(s) referred to:

Lim Hui Jin v. CIMB Bank Bhd & Ors [2018] 8 CLJ 327 CA ***(refd)***

Raqeem Rizqin Enterprise & Yang Lain lwn. Ketua Polis Negara & Satu Lagi [2019] 8 CLJ 41 FC ***(refd)***

Tetuan WY Chan Roy v. Modular Techcorp Holdings Bhd & Anor [2015] 5 CLJ 1105 HC ***(refd)***

Legislation referred to:

Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001, ss. 4(1)(b), 44(1), (5), 50(1), 52A, 55(1), 56, 87(1)

Federal Constitution, art. 13

Malaysian Anti-Corruption Commission Act 2009, s. 23(1)

Rules of Court 2012, O. 17

Societies Act 1966, ss. 9(b), (c), 51(1), (2)

For the plaintiff - Sathya Kumardas & Daud Sulaiman; M/s Shearn Delamore & Co

For the 1st & 2nd defendants - Nurhafizza Azizan & Mohammad Sallehuddin Md Ali; AG's Chambers

For the 3rd defendant - Chetan Jethwani & Tang Jia Yearn; M/s Chetan Jethwani & Co

Reported by Najib Tamby

JUDGMENT

Gan Techiong JC:

[1] As shown in the intitulement of the originating summons, the plaintiff's application is an interpleader filed pursuant to O. 17 of the Rules of Court 2012. It asks this court to determine whether it should continue to freeze the money in the third defendant's bank account maintained with the plaintiff bank or to accede to the third defendant's demand for the money to be released.

[2] Based on the charges disclosed in the affidavits, the total amount of money deposited by Bukhary Equity Sdn Bhd into the third defendant's bank account was a massive sum of RM195 million.

[3] After hearing lengthy submissions by respective counsel on 11 October 2024, I had reserved decision to be delivered on 21 November 2024. On 21 November 2024, I was ready to pronounce my decision. In reading the first part of my broad grounds, I had expressed my view that the issues between the defendants are not suitable to be determined summarily in an interpleader application filed by the plaintiff, and ought to be decided in the pending judicial review applications and/or the criminal

case. Upon hearing my view, learned counsel for the third defendant had submitted that if given an opportunity to submit further, he would be able to show this court that the disputes could be determined summarily. I then acceded to counsel's request to defer delivery of my decision and fixed a new date in January 2025. The date in January 2025 had to be adjourned due to unforeseen circumstances, and was finally rescheduled to 9 April 2025.

[4] No new authorities and/or further written submissions were filed. Instead, on 4 April 2025, a voluminious affidavit – 376 pages long – was filed by solicitors for the third defendant. With respect, the filing of a further affidavit at this late stage is not permissible without leave of court. Further, I noted that the said affidavit was affirmed by an advocate and solicitor who is acting for the third defendant. If this 376 pages long affidavit, which was filed on 4 April 2025, was to be admitted, it would have entailed further adjournments to give the other parties sufficient time to reply and respond. I therefore decided to disregard the said affidavit (which was filed very late without leave of court) and to pronounce my decision on 9 April 2025 based on the earlier submissions of all parties. With respect, if it is necessary for the third defendant to rely on a new 376 pages long affidavit, the issues between the defendants are obviously not suitable to be determined summarily.

[5] The decision that I pronounced on 9 April 2025 was to direct the plaintiff to continue to hold the money in the third defendant's bank account until a decision is pronounced by the High Court at Kuala Lumpur (Special Powers Division) in the pending judicial review applications filed by the third defendant for Parti Pribumi Bersatu Malaysia, *ie*, Judicial Review Nos: WA-25-62-03/2023 and WA-25-137-05/2023 respectively. My reasons are as explained below.

Background Facts And Chronology Of Events

[6] The plaintiff is one of the major commercial banks in Malaysia.

[7] The first defendant is Suruhanjaya Pencegahan Rasuah Malaysia, commonly known as "MACC", *ie*, the abbreviation of its name in English: Malaysia Anti-Corruption Commission.

[8] The second defendant is the Public Prosecutor of Malaysia.

[9] The third defendant is a member of Parti Pribumi Bersatu Malaysia, which is a political party duly registered as a society under the Societies Act 1966. He is named in the intitulement because he has been registered with the Registrar of Societies as the "public officer" of the said society.

[10] Parti Pribumi Bersatu Malaysia is a customer of the plaintiff bank and has money in credit in its current-i Account No. 8602689940 ("the said account").

[11] In January 2023, the first defendant (MACC) commenced investigation against Tan Sri Dato' Haji Mahiaddin @ Muhyiddin bin Haji Md Yasin ("TSMY") under s. 23 of the Malaysian Anti-Corruption Commission Act 2009 pursuant to a complaint of bribery involving the Program Jana Ekonomi Pemerkasaan Kontraktor Bumiputera Berwibawa (Jana Wibawa) ("the Jana Wibawa program").

[12] On 12 January 2023, the plaintiff bank received an order from the first defendant (MACC). It was an order dated 12 January 2023 ("the freezing order") issued pursuant to s. 44(1) of the Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001 ("the AMLA Act") directing the plaintiff to freeze the said account and to restrain any person from withdrawing, dealing with or otherwise disposing of any money in the account, including any accretions thereon. The plaintiff bank duly complied with the freezing order.

[13] On 8 March 2023, the third defendant and TSMY jointly filed an application for judicial review to challenge the validity of the freezing order. The application was registered as Judicial Review Application No: WA-25-62-03/2023 ("JR No. 62"). Leave for judicial review was granted on 30 May 2023. The substantive application has yet to be disposed of.

[14] On 10 March 2023, TSMY was charged at the Kuala Lumpur Sessions Court with:

(i) four charges for an offence under s. 23(1) of the Malaysian Anti-Corruption Commission Act 2009 ("MACC Act") based on a total sum of RM200 million received from Bukhary Equity Sdn Bhd for TSMY's associate, namely Parti Pribumi Bersatu Malaysia ("the MACC Act charges"); and

(ii) two charges for an offence under s. 4(1)(b) read together with s. 87(1) of the AMLA Act whereby the charges are based on the fact that a total sum of RM195 million was remitted by Bukhary Equity Sdn Bhd into the said account ("the AMLA-CIMB charges").

[15] On 13 March 2023, TSMY was charged at the Shah Alam Sessions Court for an offence under s. 4(1)(b) of the AMLA Act for RM5 million, also received from Bukhary Equity Sdn Bhd. As the sum of RM5 million was remitted into Parti Pribumi Bersatu Malaysia's account with AmBank Bhd and not into the said account, it is irrelevant here.

[16] On 11 April 2023, the second defendant (the PP), by declaring that the said account had become the subject-matter or evidence relating to the commission of an offence under sub-s. 4(1) of the AMLA Act, proceeded to issue an order dated 11 April 2023 pursuant to s. 50(1) of the AMLA Act ("the seizure order"), ordering the seizure of the said account and to restrain any person from withdrawing, dealing with, or otherwise disposing of any monies in the said account, including any accretions thereon. The seizure order has been complied with by the plaintiff.

[17] On 29 May 2023, the third defendant filed a second application for judicial review, this time to challenge the seizure order. The application was registered as Judicial Review Application No: WA-25-137-05/2023 ("JR No. 137"). Leave for judicial review was granted. The substantive application has yet to be disposed of.

Basis Of The Plaintiff's Interpleader

[18] The plaintiff's predicament which led to its filing of this interpleader began in early 2024 when it received a letter of demand from the third defendant's solicitors demanding the release of money in the said account. The third defendant takes the position that neither criminal charges nor forfeiture proceedings in relation to the said account have been brought against the third defendant and therefore the seizure order had purportedly lapsed.

[19] The plaintiff reacted by seeking clarification from the first defendant. The first defendant responded on 27 February 2024 by providing the charge sheets for the MACC Act charges and the AMLA-CIMB charges, and maintained its stance that the said account ought to remain frozen. The plaintiff reverted expeditiously to the third defendant's solicitors, informing that the plaintiff has received further instructions from the first defendant to continue freezing the said account because TSMY, who is an office bearer of the third defendant, has been charged in court for several offences related to money in the said account.

[20] In response, the third defendant's solicitors wrote to the plaintiff threatening to commence legal proceedings against the plaintiff for failing to release the said account. The plaintiff responded by requesting the third defendant to refrain from initiating any proceedings against the plaintiff pending the determination of the plaintiff's interpleader application filed in this court.

The Third Defendant's Position

[21] The third defendant's contention for seeking immediate release of the money in the said account could be summed as follows.

[22] First, the third defendant contends that the seizure order has ceased to have effect pursuant to s. 52A of the AMLA Act because Parti Pribumi Bersatu Malaysia has allegedly not been charged within 12 months from the date of the freezing order which preceded the seizure order.

[23] The third defendant further contends that if there has been no charge proffered, the second defendant (the PP) should have filed an application, pursuant to s. 56 of the AMLA Act, within 12 months from the date of the freezing order to forfeit money in the said account.

[24] Lastly, it was submitted that Parti Pribumi Bersatu Malaysia has been deprived of rights to property under art. 13 of the Federal Constitution because the said account is still frozen.

[25] Learned counsel for the third defendant cited *Lim Hui Jin v. CIMB Bank Bhd & Ors* [2018] 8 CLJ 327 and *Raqeem Rizqin Enterprise & Yang Lain lwn. Ketua Polis Negara & Satu Lagi* [2019] 8 CLJ 41 in support of his submissions to urge this court to determine the claims in this interpleader summarily in favour of the third defendant.

The First Defendant And Second Defendant's Position

[26] The first defendant and second defendant take the same position, that money in the said account should remain frozen because s. 52A of the AMLA Act is inapplicable based on the facts of this case.

[27] Learned counsel for the first and second defendant referred to the AMLA-CIMB charges and the MACC Act charges (as mentioned in para. [14] above) and submitted that the seizure order has not expired by operation of s. 52A because TSMY, as office bearer of Parti Pribumi Bersatu Malaysia, has been charged under the AMLA Act.

Analysis Of The Facts And Law

[28] Let me begin by recapitulating and putting a few points in perspective. First, the freezing order dated 12 January 2023 would have expired after 90 days, *ie*, on 12 April 2023 if no charge had been proferred prior to the said deadline. This was because s. 44(5) of the AMLA Act reads:

> (5) An order made under subsection (1) shall cease to have effect after ninety days from the date of the order, if the person against whom the order was made has not been charged with an offence under this Act or a terrorism financing offence, as the case may be.

[29] Secondly, as narrated in para. [14] above, on 10 March 2023 (which was still within the 90 days period stipulated in s. 44(5) of the AMLA Act), TSMY was already charged at the Kuala Lumpur Sessions Court with:

(i) four charges for an offence under s. 23(1) of the MACC Act based on a total sum of RM200 million received from Bukhary Equity Sdn Bhd for TSMY's associate, namely Parti Pribumi Bersatu Malaysia (referred to hereinabove as "the MACC Act charges"); and

(b) two charges for an offence under s. 4(1)(b) read together with s. 87(1) of the AMLA Act whereby the charges are based on the fact that a total sum of RM195 million was remitted by Bukhary Equity Sdn Bhd into the said account (referred to hereinabove as "the AMLA-CIMB charges").

[30] Thirdly, the seizure order had been issued by the second defendant (the PP) pursuant to s. 50(1) of the AMLA Act on 11 April 2023. This was on the basis that money in the said account had become the subject matter or evidence relating to the commission of an offence under sub-s. 4(1) of the AMLA Act or are the proceeds of an unlawful activity. For convenient reference, the whole of s. 50(1) is set out below:

(1) Where *the Public Prosecutor* is satisfied on information given to him by an investigating officer that *any movable property* or any accretion to it which is:

(a) *the subject-matter or evidence relating to the commission of an offence under subsection 4(1)* or a terrorism financing offence;

(b) terrorist property;

(c) *the proceeds of an unlawful activity; or*

(d) the instrumentalities of an offence,

is in the possession, custody or control of a financial institution, he may, notwithstanding any other written law, by order direct that *such movable property* or any accretion to it *in the financial institution be seized by the investigating officer* or *by order direct the financial institution not to part with, deal in or otherwise dispose of such movable property or any accretion to it, in whole or in part, until the order is varied or revoked.*

(emphasis added)

[31] Under s. 50(1) of the AMLA Act, movable properties (including money in a bank account) which may be seized are not restricted to properties registered or maintained in the name of a person who has been charged. Section 50(1) appears to be have been intentionally drafted widely by stating:

any movable property or any accretion to it which is:

(a) the subject-matter or evidence relating to the commission of an offence under subsection 4(1) …

(c) the proceeds of an unlawful activity

(emphasis added)

In other words, the movable properties that could be seized under s. 50(1) of the AMLA Act include those that are not registered or maintained in an accused's name.

[32] Likewise in s. 55(1) of the AMLA Act governing forfeiture of any movable property "which is the subject-matter or evidence relating to the commission of an offence under sub-s. 4(1)" or "the proceeds of an unlawful activity", it is not restricted to forfeiture of movable properties registered or maintained in the name of the accused.

[33] There is no doubt that s. 52A of the AMLA Act is applicable if the person against whom the order was made has not been charged with an offence under the said Act. Section 52A reads:

A seizure order made under this Act shall cease to have effect after the expiration of twelve months from the date of the seizure order, **or where there is a prior freezing order, twelve months from the date of the freezing order, if** the person against whom the order was made has not been charged with an offence under this Act.

(emphasis added)

[34] With s. 52A in mind, has Parti Pribumi Bersatu Malaysia been charged with an offence under the AMLA Act? If it has been charged within 12 months of the date of the freezing order, *ie*, on or before 11 January 2024, the seizure order would continue to be in force. As mentioned above, the first defendant and second defendant submit in the affirmative while the third defendant submits that there has been no charge proffered because there is no charge naming Parti Pribumi Bersatu Malaysia as the accused. In order to answer the said question, it is necessary to go through the Societies Act 1966 and thereafter to look at the charge sheets for the AMLA-CIMB charges.

[35] Now, Parti Pribumi Bersatu Malaysia is a political party that is registered as a society under the Societies Act 1966. A society is not a body corporate. Unlike a company incorporated under the Companies Act 2016 or a limited liability partnership registered under the Limited Liability Partnerships Act 2012 which are new legal entities, a society such as Parti Pribumi Bersatu Malaysia does not have a separate legal entity.

[36] For civil cases, s. 9(c) of the Societies Act 1966 makes it mandatory for a society to sue or be sued in the name of a member who has been registered with the Registrar of Societies as the "public officer" of the society. If no member has been so registered, it shall be competent for any person having a claim against the society to sue the society in the name of any office-bearer of the society. I have no doubt that the third defendant fully understands this provision of the law as he has been correctly named, in this interpleader as well as in both judicial review applications (JR No. 62 and JR No. 137 respectively), in his capacity as the registered public officer of Parti Pribumi Bersatu Malaysia.

[37] Delving a bit deeper into the legal structure of a society registered under the Societies Act 1966, it is obvious that the said Act maintains societies as associations of persons without a separate legal entity. In almost all legal situations, a society is to use the name of its public officer or trustee or office-bearers and not to use its own name. The only exception appears in s. 9(b) of the Societies Act 1966, enabling immovable property to be registered in the name of the society itself instead of in the names of its office-bearers. This was a provision specially introduced because societies often outlive their trustees and office-bearers, and for practical purposes, Parliament saw fit to enable a society to have its own name registered on a land title as the proprietor of the land. I reiterate that in civil cases, s. 9(c) makes it mandatory to name the public officer as a defendant, and if no member has been registered as a public officer, the society may be sued by suing an office-bearer of the society.

[38] Since the submissions of learned counsel for the third defendant are premised upon his contention that there is no charge naming Parti Pribumi Bersatu Malaysia as the accused, the question arises as to whether a society

registered under the Societies Act 1966 may be charged in its own name under the AMLA Act? This question is one of the questions to be answered by my learned brother or sister judge who shall be hearing JR No. 62 and/or JR No. 137 – as it is related to the issues raised by the third defendant in the judicial review applications. However, since this question of whether a society may be charged in its own name with a criminal offence under the AMLA Act has been raised in the submissions of both sides filed in this court, it is incumbent upon me to state my view. I hold the view that the Public Prosecutor may not charge a society in the name of the society for any offence under the AMLA Act. My reasons are as follows. First, there is no provision of law in the Societies Act 1966 or the AMLA Act for a society to be regarded as a separate legal entity to be charged in its own name.

[39] My second reason for holding the view that the Public Prosecutor may not charge a society, in the name of the society, for any offence under the AMLA Act is as follows. The only provision in the Societies Act 1966 that makes reference to criminal offences committed in the name of a society is s. 51 thereof. Section 51 does not mention a word about a society being charged in its own name. Instead, s. 51(2) refers to the prosecution of an office-bearer or any person managing or assisting in the management of a society if an offence is committed by the society.

[40] I note that the wording of s. 51(1) of the Societies Act 1966 has been deftly drafted to state that if an offence punishable with a fine or imprisonment has been committed by any society, every office- bearer shall be deemed to be guilty of such offence and shall be liable to the punishment prescribed by law therefor, unless he establishes to the satisfaction of the court that the offence was committed without his knowledge and that he had exercised all due diligence to prevent the commission of the offence. In other words, the said s. 51(1) allows innocent office-bearers to vindicate themselves and be exonerated by proving lack of knowledge and having exercised due diligence to prevent the offence from being committed. In my view, the Public Prosecutor may decide to charge any office-bearer of a society that has committed an offence, as he deems fit. This is because s. 51(2) expressly states that an office-bearer may be prosecuted notwithstanding that he may not have taken part in the commission of the offence. Section 51(1) and (2) are as set out below:

> *(1) Where any offence punishable with a fine or imprisonment has been committed*, whether or not any person has been convicted in respect thereof, and *such offence has been committed or purports to have been committed by any society* or in the name or on behalf of any society, *every office-bearer of such society* and every person managing or assisting in the management of such society at the time of the commission of such offence *shall be deemed to be guilty of such offence* and shall be liable to the punishment prescribed by law therefor, *unless he establishes to the satisfaction of the Court that the offence was committed without his knowledge and that he had exercised all due diligence to prevent the commission of the offence.*

A (2) *Any office-bearer* and person managing or assisting in the management of such society *shall be liable to be prosecuted under this section, notwithstanding that he may not have taken part in the commission of the offence.*

(emphasis added)

[41] With respect, I pause at this juncture to point out that the charge sheets B for the AMLA-CIMB charges state that TSMY is being charged in his capacity as the President of Parti Pribumi Bersatu Malaysia. The words "sebagai Presiden Parti Pribumi Bersatu Malaysia" could be seen in the screenshot below:

PERTUDUHAN/CHARGE LAMPIRAN

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PENDAKWA RAYA

LAWAN

MAHIADDIN BIN MD YASIN
(HO. K/P: 470515-01-5401)

D PERTUDUHAN PERTAMA

Bahawa kamu di antara 25 Februari 2021 dan 16 Julai 2021, di CIMB Bank Cawangan Menara KL, Jalan Stesen Sentral, di dalam Wilayah Persekutuan Kuala Lumpur, sebagai Presiden Parti Pribumi Bersatu Malaysia, telah menerima hasil daripada aktiviti haram, iaitu wang E berjumlah RM120,000,000.00 (Ringgit Malaysia Satu Ratus Dua Puluh Juta), daripada Bukhary Equity Sdn Bhd yang dimasukkan ke dalam akaun CIMB Bank milik Parti Pribumi Bersatu Malaysia no akaun 8602689940, oleh yang demikian kamu telah melakukan suatu kesalahan di bawah s. 4(1)(b) dibaca bersama s. 87(1) Akta Pencegahan Pengubahan Wang Haram, Pencegahan Pembiayaan Keganasan dan Hasil Daripada F Aktiviti Haram 2001 [Akta 613] yang boleh dihukum di bawah s. 4(1) Akta yang sama.

[42] The fact that TSMY has been charged in his capacity as the President of Parti Pribumi Bersatu Malaysia ("sebagai Presiden Parti Pribumi Bersatu Malaysia") in March 2023, *ie*, before the expiry of the forfeiture order or the G seizure order, is the distinguishing fact that convinced me that those authorities cited by counsel for the third defendant are inapplicable to support his submissions for immediate release of the said account in an interpleader filed by the plaintiff.

H **[43]** In *Lim Hui Jin v. CIMB Bank Bhd & Ors* [2018] 8 CLJ 327; [2018] 6 MLJ 724, the appellant was not charged. Instead, her mother was charged. The facts that distinguish it from the present case are found in the following passages of the judgment of Abdul Rahman Sebli JCA (as the Rt Hon CJSS then was):

I [11] When the present originating summons was filed on 5 May 2016, the respondents continued to freeze the appellant's account although the freezing and seizure orders had long ceased to have effect by reason of the fact that the appellant had not been charged with an offence under the AMLATEPUA on expiration of these two orders.

[40] It bears repeating that in the present case, the appellant was not charged with an offence under s. 4(1) or a terrorism financing offence after the expiration of the freezing and seizure orders. It was his mother who was charged with that offence.

[44] Likewise, the facts in *Raqeem Rizqin Enterprise & Yang Lain lwn. Ketua Polis Negara & Satu Lagi* [2019] 8 CLJ 41; [2019] 5 MLJ 693 show that there was no charge proffered within 12 months of the issuance of the freezing order or the seizure order. This is seen in the following passage of the judgment of Zawawi FCJ (as he then was):

[64] Berhubung dengan kesan di sisi undang-undang sekiranya tiada pertuduhan dikemukakan selepas tamat tempoh 12 bulan dari tarikh perintah pembekuan dan penyitaan dan tiada permohonan dibuat di bawah sub-s. 56(1), kami bersetuju dengan keputusan Mahkamah Rayuan dalam kes *Lim Hui Jin v. CIMB Bank Bhd & Ors* [2018] 6 MLJ 724; [2018] 8 CLJ 327.

[45] In this case before this court, it is undisputed that TSMY has been charged within the period stipulated in s. 52A of the AMLA Act. As pointed out above, there is no provision in the Societies Act 1966 for a society, including a political party such as Parti Pribumi Bersatu Malaysia, to be charged in its own name. Section 51(2) of the Societies Act 1966 permits the PP to charge any office-bearer by relying on the deeming provision in s. 51(1) of the Societies Act 1966.

[46] Further, there is also s. 87 of the AMLA Act (cited by learned counsel for the first and second defendants) which has a deeming provision similar to s. 51(1) of the Societies Act 1966 in respect of offences committed by an association of persons. Section 87(1) reads:

(1) Where an offence is committed by a body corporate or an association of persons, a person:

(a) who is its director, controller, officer, or partner; or

(b) **who is concerned in the management of its affairs,**

at the time of the commission of the offence, **is deemed to have committed that offence** unless that person proves that the offence was committed without his consent or connivance and that he exercised such diligence to prevent the commission of the offence as he ought to have exercised, having regard to the nature of his function in that capacity and to the circumstances.

(emphasis added)

[47] Thus, reading s. 51 of the Societies Act 1966 together with s. 52A and s. 87 of the AMLA Act, it is logical to regard the act of charging TSMY, in his capacity as the President of Parti Pribumi Bersatu Malaysia, as due compliance with s. 52A of the AMLA Act – to charge the person against whom the seizure order was made within 12 months, with an offence under the AMLA Act.

[48] With those facts and law as analysed above, I remind myself that the plaintiff's interpleader is what it is: simply an interpleader application filed by the plaintiff to avoid being sued by the third defendant and/or to be charged by the first and second defendants. It should not be heard as a civil suit or judicial review filed by the third defendant against the first defendant and/or the second defendant.

[49] In *Tetuan WY Chan Roy v. Modular Techcorp Holdings Bhd & Anor* [2015] 5 CLJ 1105 which is about an interpleader, Harmindar Singh J (as he then was) issued the following reminder regarding interpleader applications:

> [13] With these observations in mind, it was really the duty of the claimants to put forward their claims so that the court can decide who is entitled to the relief sought by the interpleader. **It was not the function of the court to try the matter as if it was action in tort or contract between the claimants.**
>
> (emphasis added)

Conclusion

[50] In an interpleader application, the power to determine disputes summarily between the claimants would be applicable if and only if there are no existing proceedings between the claimants that would be determinative of the substantive questions of law and disputes between them.

[51] It is my judgment that the disputes between the defendants, including facts and issues canvassed in the 376 pages long affidavit (which I decided not to admit as evidence), are not suitable to be determined summarily by this court in hearing the plaintiff bank's interpleader. They are questions of law and disputed facts forming the subject matters of the judicial review applications at the special powers division of this court and the aforesaid criminal prosecution at the Sessions Court – all of which are still pending hearing and trial respectively. If this court is to delve deeper, the effect would be to usurp the domain of other courts that ought to be making the final determination on a wider range of issues.

[52] I would therefore conclude by referring once again to O. 17 of the Rules of Court 2012 which is intended to provide relief to a party who is facing two or more claimants for a property that he is holding. It is certainly not a rule intended to usurp proceedings in other courts between those parties who are aptly referred to (in O. 17) as "claimants".

[53] For the purpose of providing directions in this interpleader application, I decided that this court ought to direct the plaintiff bank to continue to hold the funds in the said account until JR No. 62 and JR No. 137 are disposed of. No order as to costs.